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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
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11 FAYELYNN SAMS, on behalf of herself and
12 all others similarly situated,

13 Plaintiff,

14 v.

15 YAHOO! INC.,

16 Defendant.

Case No. 5:10-CV-05897-JF

**[PROPOSED] ORDER DENYING
DEFENDANT YAHOO! INC.'S
MOTION TO DISMISS**

Date: April 29, 2011
Time: 9:00 a.m.
Courtroom: 3

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20 On April 29, 2011, the parties were heard and evidence was received concerning
21 Defendant Yahoo! Inc.'s ("Defendant") Motion to Dismiss. After reviewing and considering the
22 papers and the arguments of counsel, the Court hereby rules as follows:

- 23 (1) Defendant's Motion to Dismiss, filed on January 13, 2011, is denied as untimely;
24 (2) Defendant became in default on December 15, 2010 pursuant to the December 2,
25 2010 Order (Doc. 16);
26 (3) Defendant was in default when it filed its untimely Motion to Dismiss;
27 (4) The Clerk shall enter a default judgment against Defendant and a hearing had on
28 damages;

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1 (5) Alternatively, Defendant's Motion to Dismiss is denied on the merits.

2 IT IS SO ORDERED.

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5 DATED: _____

6 Honorable Jeremy Fogel
7 United States District Judge
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